

Testimony of
Bryan Miller
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Good morning, my name is Bryan Jay Miller, and I am with WOXY.com, an Internet broadcaster based in Cincinnati, Ohio. I have had the unique experience of making the transition from a terrestrial FM radio station to an Internet-only webcaster, and hope that I am able to convey to this committee today the lessons I have learned over the course of my career and my reasons for opposing the recent increase of recording royalty rates for webcasters like myself.

Officially I'm the General Manager for WOXY.com, but that simple title is a little misleading. Being a small business with only 4 full-time employees, we all wear many hats. Personally I handle technical duties such as web design and development, networking, streaming media, server administration and management duties such as marketing, strategy, promotion, business development, and advertising sales. After starting out as an intern and spending the past 15 years growing with WOXY, I've managed to tackle every job under the roof at some point or another.

I believed the increased royalty rates as set by the Copyright Royalty Board will have a devastating impact on small webcasters, new and emerging musicians and music consumers.

First, the effect of these increased royalties upon webcasters, both large and small, will be crippling. From my personal experience, the economics of running a standalone Internet radio operation are daunting at best. Between bandwidth costs, hosting, music royalties, and rent, a small webcaster would be doing quite well to simply cover his or her costs let alone have anything left over for payroll. In fact, the revenues we've been able to generate in operating WOXY.com have at best covered only half of our monthly expenses. In all the conversations I've had with my peers, their situation isn't much better – most draw no salary and are lucky to

cover their costs. The Copyright Royalty Board's decision is grossly out of sync with the economic reality of small webcasters.

Specifically for WOXY.com, after going out of business and off-the-air for a second time last October, we were lucky enough to have been acquired by a larger company who thus far has been willing to subsidize our operation. Unfortunately, most webcasters facing these increased royalty rates do not have that luxury. I can guarantee that if WOXY.com had not been acquired and was still a standalone entity, the new royalties unequivocally would have been the end of road for our operation.

Second, musicians stand to lose the valuable exposure provided by Internet radio outlets. I believe one of the reasons millions of people tune into Internet radio every month is that they are looking for something new. In the past 15 years, rampant consolidation amongst AM and FM broadcasters has led to general homogenization of radio programming, narrowing playlists and fewer artists being exposed. Consumers are now turning to Internet radio to discover new artists and find something that they're not going to get via their local AM or FM radio station. Countless artists have told us that listeners have approached them at concerts around the country, telling stories of how they first discovered the band's music on WOXY.com. The musicians most hurt would be the ones who benefit most from Internet radio – new and emerging independent artists. In addition, if thousands of small webcasters go silent, artists also lose out on the performance royalties that would have been paid by those stations. Webcasters going out of business is a lose-lose for artists.

Finally, consumers will lose if there is a mass extinction of independent Internet radio stations. The growing audience of Internet radio proves that there is a hunger for alternatives to the mainstream media. With consumer's tastes becoming increasingly niched, Internet radio's ability to serve an unlimited number of channels of programming is uniquely suited to fulfill this need. Unfortunately the shortsighted \$500 per channel minimum fee in the Copyright Royalty Board's decision would make serving thousands of channels of custom programming financially impossible.

I fear that the future of Internet radio under the new performance royalty rates will look wildly different from thousands of small, vibrant, eclectic stations you see today. A select few, mostly larger corporate webcasters, may be able to pay the increased royalties by subsidizing their

Internet broadcasting operations with other non-webcast revenues, in effect using Internet radio as a loss-leader for their other products. But I truly believe that the independent small webcaster will be a thing of the past if the Copyright Royalty Board's decision is not overturned. Thousands of established and budding small businesses will vanish. Although I believe Internet broadcasting has the potential to grow into a thriving profitable industry, currently the revenue structure is simply not there to support the additional royalties.

After putting my heart and soul into WOXY.com for the past 15 years, like so many others have put into their respective Internet radio operations, it's disheartening to consider that all the hard work might be wiped away by the recent decision to drastically increase performance royalties. Having this industry snuffed out while still in its infancy would be a travesty to musicians, listeners and all the webcasters who have put so much time into making it work.

Thank you for taking the time this morning to consider this matter and to speak with representatives from all facets of the industry. Now, if you would like, I can answer any questions you might have.